

**EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

Defendant.

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The Motion to Dismiss was filed on February 20, 2019. *See* Dkt. 4. After no response was timely filed, the Magistrate Judge issued an Order (Dkt. #6) directing Plaintiff to respond no later than March 21, 2019. *See* Dkt. #6. At that time, Plaintiff Wealtr Investments, Inc. (“Plaintiff”) was warned that “Failure to file a response creates a presumption that Plaintiff does not controvert the arguments set out in the Motion.” *See* Dkt. #6 (citing E.D. TEX. LOCAL. R. 7(d)). The Report and Recommendation was entered on April 17, 2019. *See* Dkt. #9. No objections were filed by either party. Plaintiff has not made an appearance in this matter since it was removed from Collin County 380th Judicial District Court. *See generally* Dkt. #1.

Additionally, in reviewing the Plaintiff's Petition (Dkt. #3) and the Motion to Dismiss (Dkt. #4), the Court finds no error in the Report and Recommendation's finding that Plaintiff's three claims should be dismissed. First, because there are no allegations to support a finding that any foreclosure sale has taken place, Plaintiff can state no claim for wrongful foreclosure or violation of the Texas Property Code Chapter 51. Second, Plaintiff cannot recover under its claim for breach of contract on the theory that Defendant failed to send a Notice of Default as required by its Deed of Trust, because the record establishes a Notice of Default was sent to Plaintiff's last known address via certified mail on January 30, 2018. *See* Dkt. #4-2. Third, Plaintiff's request for injunctive relief is denied because all of Plaintiff's substantive claims are herein dismissed and Plaintiff asserts no valid, underlying cause of action upon which injunctive relief may be based.

Having received the Report of the United States Magistrate Judge, and no objections thereto having been timely filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court. Therefore, the Motion to Dismiss (Dkt. #4) is **GRANTED**. Plaintiff Wealtr Investments, Inc.'s claims against Defendant WMC REI LLC are hereby **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

SIGNED this 3rd day of May, 2019.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE